

**62A-11-404 Office procedures for income withholding for orders issued or modified on or after October 13, 1990.**

- (1) With regard to obligees or obligors who are receiving IV-D services, each child support order issued or modified on or after October 13, 1990, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:
  - (a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause not to require immediate income withholding; or
  - (b) a written agreement that provides an alternative arrangement is executed by the obligor and obligee, and by the office, if there is an assignment under Section 35A-3-108, and reviewed and entered in the record by the court or administrative body.
- (2) For purposes of this section:
  - (a) "good cause" shall be based on, at a minimum:
    - (i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and
    - (ii) proof of timely payment of any previously ordered support;
  - (b) in determining "good cause," the court or administrative body may, in addition to any other requirement that it determines appropriate, consider whether the obligor has:
    - (i) obtained a bond, deposited money in trust for the benefit of the dependent children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months; and
    - (ii) arranged to deposit all child support payments into a checking account belonging to the obligee or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained.
- (3) An exception from immediate income withholding shall be:
  - (a) included in the court or administrative agency's child support order; and
  - (b) negated without further administrative or judicial action:
    - (i) upon a delinquency;
    - (ii) upon the obligor's request; or
    - (iii) if the office, based on internal procedures and standards, or a party requests immediate income withholding for a case in which the parties have entered into an alternative arrangement to immediate income withholding pursuant to Subsection (1)(b).
- (4) If an exception to immediate income withholding has been ordered on the basis of good cause under Subsection (1)(a), the office may commence income withholding under this part:
  - (a) in accordance with Subsection (3)(b); or
  - (b) if the administrative or judicial body that found good cause determines that circumstances no longer support that finding.
- (5)
  - (a) A party may contest income withholding due to a mistake of fact by filing a written objection with the office within 15 days of the commencement of income withholding under Subsection (4).
  - (b) If a party contests income withholding under Subsection (5)(a), the office shall proceed with the objection as it would an objection filed under Section 62A-11-405.
- (6) Income withholding implemented under this section is subject to termination under Section 62A-11-408.
- (7)
  - (a) Income withholding under the order may be effective until the obligor no longer owes child support to the obligee.

- (b) Appropriate income withholding procedures apply to existing and future payors and all withheld income shall be submitted to the office.

Repealed and Re-enacted by Chapter 232, 1997 General Session